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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,321	10/14/2003	Michael Wayne Brown	AUS990882US7	8257
28722	7590	09/12/2005	EXAMINER	
BRACEWELL & PATTERSON, L.L.P.			RICHMAN, GLENN E	
P.O. BOX 969			ART UNIT	
AUSTIN, TX 78767-0969			PAPER NUMBER	

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DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/686,321

Applicant(s)

BROWN ET AL.

Examiner

Glenn Richman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1-26-04, 10/14/03

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Dyer et al (4,828,257).

Dyer et al disclose means for receiving at said portable computer system at least one indicator of current exercise performed by said particular user from said particular exercise machine in use by said particular user (col. 45, line 48 – col. 46, line 46); means for comparing said at least one indicator of current exercise with fitness goals for said particular user at said portable computer system; and means for adjusting a control signal transmitted from said portable computer system to said particular exercise machine in order to adjust said movement of said particular exercise machine to aid said particular user in meeting said fitness goals (col. 45, line 48 – col. 46, line 46).

As for claims 2-, Dyer et al further disclose means for comparing said at least one indicator of current exercise with fitness goals for said particular user in view of an exercise profile for said particular user at said portable computer system (col. 45, line 48 – col. 46, line 46), means for comparing said at least one indicator of current exercise with fitness goals for said particular user in view of personal data for said particular user at said portable computer system (col. 45, line 48 – col. 46, line 46), means for receiving

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an exercise machine indicator from a particular exercise machine in a particular transmittable data format at a portable computer system provided by a particular user (col. 45, line 48 – col. 46, line 46), means for determining said control signal for controlling movement of said particular exercise machine according to an exercise program specified for said particular exercise machine at said portable computer system (col. 45, line 48 – col. 46, line 46), means for transmitting said control signal to said particular exercise machine for controlling said particular exercise machine, such that said particular exercise machine is controlled by said portable computer system that is enabled to control a plurality of diverse exercise machines (col. 45, line 48 – col. 46, line 46), means for searching a plurality of predesignated control programs at said independent controller according to said particular exercise machine (col. 45, line 48 – col. 46, line 46), and means for determining said control signal from said particular predesignated control program, in response to finding a particular predesignated control program from among said plurality of predesignated control programs that is associated with said particular exercise machine (col. 45, line 48 – col. 46, line 46), means for prompting said particular user, at said portable computer system, to select from among a plurality of control programs enabled for controlling said particular exercise machine, in response to not finding a predesignated control program for said particular exercise machine (col. 23, lines 45 – et seq.); and means for determining a control signal for a particular currently selected control program from among said plurality of control programs enabled for controlling said particular exercise machine, in response to a selection of said particular currently selection control program by said particular user


(col. 45, line 48 – col. 46, line 46), means for specifying a plurality control programs enabled for controlling said particular exercise machine according to said fitness goals for said particular user, wherein said particular user is enabled to select from said specified selection of said plurality of control programs that are suited for said particular user (col. 45, line 48 – col. 46, line 46), means for displaying a graphical representation of said at least one indicator of current exercise at an output interface coupled to said portable computer system according to graphical output preferences for said particular user. 9. The system for according to claim managing exercise performed by a user said system further comprising: means for transmitting account data for said particular user from said portable computer system to said particular exercise machine in order to receive access to use of said particular exercise machine, wherein said account data is utilized to debit said particular user for use of said particular exercise machine (col. 22, lines 42-61), means for prompting said particular user, at said portable computer system, to utilize said particular exercise machine according to an electronic exercise schedule comprising a plurality of exercise events for said particular user (col. 22, lines 42-61).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Glenn Richman
Primary Examiner
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